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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,475	12/28/2000	Lynh Nguyen	ST9-99-134US3	7832
23373	7590	11/14/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			CHANKONG, DOHM	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,475

Applicant(s)

NGUYEN, LYNH

Examiner

Dohm Chankong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- 1> This action is in response to Applicant's arguments, filed 9.7.2006. Claims 1-19 are presented for further examination.
- 2> This is a final rejection.

Response to Arguments

- I. WITH RESPECT TO GUENTHNER AND MASTORS, APPLICANT'S ARGUMENTS HAVE BEEN CAREFULLY CONSIDERED BUT ARE NOT PERSUASIVE.

Applicant argues in substance: (A) Guenthner fails to disclose dynamically detecting availability of the data source in response to a subsequent request for the data source and re-connecting the data source to the remote application in response to the subsequent request; and (B) Mastors fails to disclose dynamically detecting availability of the data source in response to a subsequent request for the data source and re-connecting the data source to the remote application in response to the subsequent request. Applicant's arguments are not persuasive for the following reasons.

- A. The feature of dynamically detecting availability of the data source in response to a subsequent request is obvious in view of Guenthner.

Applicant argues that Guenthner is directed to a policy whereby a client retries servers that were marked "bad". Guenthner further discloses that "it is desirable that clients resume using primary servers as soon as possible when the servers are restored to service" [column 9 «lines 26-28»]. The implication of this statement is that the clients will detect when primary servers have become available in order to resume using the primary servers.

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The purpose of the policy is to “enable[s] the client to access servers that, while previously down or overloaded, are later returned to service or otherwise available to handle the request” [column 9 «lines 32-35»].

Based on the purpose of the policy, it would seem obvious to one of ordinary skill in the art that the client must detect when the data source (server), that were previously unavailable (down or overloaded), are now available (returned to service or otherwise available to handle the request) and re-connecting the data source to the remote application (client) in response to the request. Therefore, in the Office’s view, the feature of dynamically detecting availability of a data source in response to a subsequent request and re-connecting the data source to the remote application is obvious in view of Guenthner.

B. Mastors teaches dynamically detecting availability of the data source in response to a subsequent request and reconnecting to the data source.

Applicant argues that Mastors is directed to a copy-file-to-server routine and never mentions or suggests dynamically detecting the availability of the data source in response to a subsequent request for the data source. However, Applicant’s position is unsupported.

For example, Mastors discloses in the abstract one aspect of his invention: “[w]hen the client detects that the server is available...the target file is sent along with the stored credentials to the server.” The target file being sent to the now available server is analogous to the feature of reconnecting to the data source. This functionality is discussed throughout Mastors [see for example, column 8 «lines 46-50»: “detecting at the client that the server is available”]. Therefore, it would have been obvious to one of ordinary skill in the art that Mastors teaching of detecting availability of a failed server and resubmitting a target file to

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the server when it is determined to be available is analogous to the Applicant's claimed limitations.

II. WITH RESPECT TO RIZVI, APPLICANT'S ARGUMENTS ARE PERSUASIVE.

Applicant's arguments with respect to the Rizvi reference have been fully considered and are persuasive. The rejection of claims 1-19 under Polizzi in view of Rizvi has been withdrawn.

III. CONCLUSION

For the foregoing reasons, Applicant's arguments with respect to Guenther and Mastors are not persuasive. The rejection of claims 1-19 under Polizzi in view of Guenther and claims 1-5, 8-12 and 15-19 under Polizzi in view of Mastors are maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action, see non-final rejection filed 6.22.2006.

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4> Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Polizzi et al (US 2002/0023158, "Polizzi," hereafter) in view of Guenthner et al, U.S Patent No. 5,134,588 ["Guenthner"].

5> Claims 1-5, 8-12 and 15-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Polizzi et al (US 2002/0023158, "Polizzi," hereafter) in view of Mastors et al, U.S Patent No. 5,826,021 ["Mastors"].

6> Claims 20-22 are rejected under 35 U.S.C § 103(a) as being unpatentable over Polizzi and Guenthner, in view of Brendel et al, U.S Patent No. 5,774,660 ["Brendel"].

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

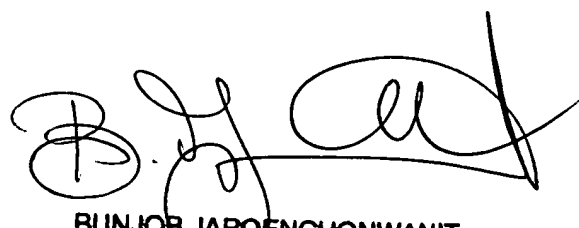
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Tuesday-Friday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER